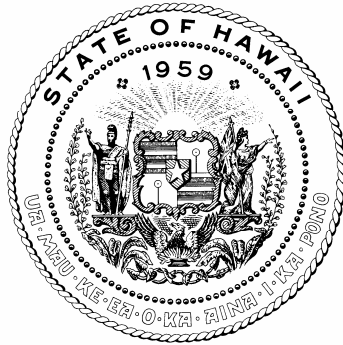


**REPORT TO THE TWENTY-FOURTH LEGISLATURE  
REGULAR SESSION OF 2007**

**STATUS OF THE ISSUANCE OF INCIDENTAL TAKE  
LICENSES FOR ENDANGERED, THREATENED, PROPOSED,  
AND CANDIDATE SPECIES; AND THE CONDITION OF  
THE ENDANGERED SPECIES TRUST FUND  
FOR THE PERIOD JULY 1, 2005 – JUNE 30, 2006**



**Prepared by**

**THE STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
DIVISION OF FORESTRY AND WILDLIFE**

In response to Section 195D-26, Hawaii Revised Statutes

Honolulu, Hawaii  
November 2006

**STATUS OF THE ISSUANCE OF  
INCIDENTAL TAKE LICENSES FOR ENDANGERED, THREATENED,  
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**PURPOSE**

Act 380, Session Laws of Hawaii 1997, amended the State Endangered Species Law, Chapter 195D, Hawaii Revised Statutes (HRS), to provide for the preparation and implementation of habitat conservation plans and safe harbor agreements, and to provide additional incentives for private landowners to recover and protect threatened and endangered species on their lands. Specifically, §195D-26, HRS, requires that an annual report be prepared by the Department of Land and Natural Resources (DLNR) on:

1. The effectiveness of habitat conservation plans or safe harbor agreements issued under Chapter 195D, HRS;
2. The status of all species for which incidental take licenses have been issued;
3. A description of the condition of the Endangered Species Trust Fund established under §195D-31, HRS; and
4. Any recommendations to further the purposes of Chapter 195D, HRS.

This annual report is submitted to fulfill the reporting requirement for Fiscal Year (FY) 2006.

**FINDINGS**

**Effectiveness Of Habitat Conservation Plans (HCP) And Safe Harbor Agreements (SHA's) Issued Under Chapter 195D, HRS**

The sunset date on the issuance and approval of new SHAs, HCPs, and incidental take licenses was extended to July 1, 2012 as a result of Act 90, Session Laws of Hawaii (SLH) 2006, amending Act 380, SLH 1997.

Incidental take licenses have been issued to accompany the following HCPs and SHA's as of June 30, 2006.

1. Reintroduction of Nene to Puu O'Hoku Ranch, Molokai. Issued: September 4, 2001. The Puu O'Hoku Ranch was the first SHA issued in Hawaii. The Agreement calls for Puu O'Hoku Ranch to allow the reintroduction of Nene on Puu O'Hoku Ranch (Ranch), construct a release pen, provide habitat for Nene grazing and breeding, and to control predators in the release pen and Nene

breeding areas. The release of Nene has been completed with a total of 74 released.

During FY 2006, there were 12 nesting attempts within the release pen, with nine goslings produced. The predator trapping program continued surrounding the release pen and other areas of the Ranch; 48 mongoose, five rats and two mice were trapped and removed. The Ranch conducted additional predator trapping throughout the Ranch and removed 35 mongoose. The Ranch ran a cattle and horse grazing operation to maintain 735 acres in pasture and short grass habitat for Nene use, and the release pen was mowed on a monthly basis. An additional five acres were mowed around the release pen on a semi-annual basis. During FY 2006, five Nene were found dead all from unknown causes. There were no birds taken on the incidental take license. Since the start of the project, 74 birds have been released, 43 goslings produced, and nine reported deaths.

2. SHA and Habitat Management Plan for Koloa (Hawaiian Duck) and Nene (Hawaiian Goose) on Umikoa Ranch, Island of Hawaii. Issued: December 5, 2001. The Umikoa SHA calls for the creation and management of 2.0 acres of wetland ponds and 150 acres of riparian and associated uplands, fencing ponds, predator and weed control, and outplanting of food items to benefit Koloa and Nene. As per the SHA, eight permanent and two seasonal ponds ranging from 0.05 to 0.57 acres (totaling 2.01 acres) and 151.3 acres of ponds and uplands have been fenced, and are being managed for Koloa and Nene.

During FY 2006, the Ranch has continued its predator control program using diphacinone mongoose bait in pond areas. The current Koloa population is estimated to be six birds, which is three times the baseline number at the beginning of the Agreement. There were no birds taken on the incidental take license.

3. Programmatic SHA for the Nene on the Island of Molokai. Issued: April 7, 2003. This is the first "programmatic" SHA issued in the State. DLNR's Division of Forestry and Wildlife (DOFAW) is the Licensee. Landowners can voluntarily enroll by signing a cooperative agreement with DOFAW, which commits them to make appropriate habitat on their land available to Nene for a period of 10 years, and in return the landowner receives assurances from both the state and federal agencies that they will not be held responsible if Nene should be accidentally harmed or killed on their property for the duration of the License, which expires in 2053.

During FY 2006, there were no landowners enrolled under this Agreement prior to the end of FY 2006. DOFAW has conducted the necessary baseline surveys on the site immediately adjacent to Puu O Hoku Ranch where Nene reintroduction is occurring, and will be negotiating the terms of a cooperative agreement with the landowner in FY 2007.

4. Conservation Plan for Hawaiian Stilt at Cyanotech Aquaculture Facility Keahole Point, Island of Hawaii. Approved: June 13, 2002. The Plan covers ongoing operations and maintenance activities at Cyanotech's Aquaculture Facility within the Natural Energy Laboratory of Hawaii (NELHA) along the Kona Coast of the Big Island, and provides mitigation for the accidental loss of juvenile stilts in the facility's production ponds. The following mitigation measures have been implemented: 1) Cyanotech created and maintained a 1.7-acre pond to produce optimum stilt breeding habitat – 48 stilt chicks were fledged before the pond was drained and netted, to prevent further nesting at the facility because of safety concerns at the adjacent Kona Airport; 2) Predator control was conducted to reduce mortality of stilts present at the facility; and 3) Deterrent measures were implemented to discourage stilts from occupying the facility.

During FY 2006, one dead stilt was recovered from the Cyanotech Facility. Cyanotech has requested an amendment to their HCP that will extend the term for 10 years.

5. HCP for *Abutilon menziesii* at Kapolei, Island of Oahu. Approved April 8, 2004. This HCP was developed to cover the impacts and measures that will be taken to mitigate the impacts to the endangered plant species, *Abutilon menziesii*, that are present on a 1,381-acres of state and city-owned property, which is the site of the proposed construction of the North-South Road Highway, Kapolei Parkway and subsequent developments. Although the Department of Transportation is the sole applicant, the implementation of the HCP mitigates for the impact of development actions that may be conducted by other agencies/organizations that are not yet identified. To date, Certificates of Inclusion, which authorize incidental take to third parties, have been issued to the Department of Hawaiian Home Lands. The HCP outlines a strategy to take cuttings and collect seeds from the existing plants prior to their removal and using these materials to: 1) Maintain genetic representation of the original population by growing cuttings in nurseries and placing seeds in seed storage facilities; and 2) Establish three new populations in protected areas elsewhere on Oahu. In addition, the HCP provides funding to protect and maintain the wild populations for a minimum period of 20 years to assure that they will survive. Cuttings from plants continue to be propagated in the greenhouse and to date, *Abutilon menziesii* has been outplanted at seven different sites: Diamond Head, Honouliuli Wildlife Refuge, Kealia Trail, Kaena Point, Ka Iwi, Ewa Villages Gold Course, and Koko Crater Botanical Garden. Five of these sites will be used towards the goal of establishing three self-reproducing wild populations (Ewa Villages Golf Course, Diamond Head, Honouliuli Wildlife Refuge, Ka Iwi, and Kaena Point). The Koko Crater Botanical Garden population will function as a protected repository for the full genetic stock of the Kapolei population. The Kealia Trail site was an experimental site to test the biological requirements of the plant.

During FY 2006, the focus was establishing the Ewa Villages outplanting site and to establish a small test site at Ka Iwi to determine the feasibility of a full population. During FY 2006, 35 individual plants in the existing population where development will occur were transplanted into the approximately 18-acre “Contingency Reserve Site” established on the site. There are now only seven wild plants left at the original sites.

6. SHA for the Introduction of the Nene to Piiholo Ranch, Island of Maui – Issued: September 21, 2004. Under this Agreement, Piiholo Ranch is maintaining or improving approximately 600 acres of Nene on the Ranch for a period of 10 years by continuing cattle ranching operations, thereby maintaining open, short-grass habitat; in cooperation with DOFAW, a Nene release pen was constructed and the Ranch has agreed to control predators around breeding and release sites and outplant native plant species known to be Nene food sources.

During FY 2006, a total of eight Nene were released into the release pen (three male and five females) during one release (August 11, 2005.) The predator trapping program continued surrounding the release pen and other areas of the Ranch; 32 mongoose and three cats were trapped and removed. The Ranch ran a cattle and horse grazing operation to maintain 600 acres in pasture and short grass habitat for Nene use, and the release pen was mowed on a monthly basis. During FY 2006, 200 native plants were planted within the release pen. Four of the Nene released in FY 2005 were captured and moved to Haleakala National Park after they began defecating on an adjacent landowner’s roof, which is used as a water catchment. There were no birds taken on the incidental take license.

7. SHA for Chevron Hawaii Refinery, James Campbell Industrial Park, Island of Oahu. Issued: November 7, 2005. This SHA is for the management of nesting and foraging habitat for endangered Hawaiian Stilt and Hawaiian Coot at the Chevron Refinery Hawaii at the James Campbell Industrial Park on Oahu. The Agreement has a term of six years and during that period Chevron will maintain six acres of stilt nesting habitat and five acres of habitat for stilt and coot foraging. Chevron manages the water level and vegetation in a basin known as Rowland's Pond to maximize nesting habitat and conduct predator control around Rowland's Pond and several other ponded areas within the refinery to provide additional foraging habitat. Chevron has committed to monitor the stilts and coots occurring on their property and implement adaptive management strategies, should current management activities appear ineffective. In addition, Chevron conducts an education program for its employees and contractors about the Hawaiian Stilt and Hawaiian Coot at the refinery.

During FY 2006, a total of eight stilts fledged at the Chevron facility in FY 2006. There were five stilts (two adults, three chicks) taken under the incidental take license during FY 2006, which occurred when the stilts became caught within a ponded area that had been netted off to prevent access.

8. HCP for Kaheawa Pastures Wind Energy Generation Facility, Island of Maui. Issued: January 30, 2006. This HCP was developed to mitigate for impacts that construction and operation of the wind farm facility may have to four listed species: Hawaiian Petrel, Newell's Shearwater, Hawaiian Goose and Hawaiian Bat. These species are known to be in the vicinity and could be injured or killed if they collide with one of the 20 wind turbines constructed on the site.

During FY 2006, the operator of the project, Kaheawa Wind Power, LLC, (KWP) has committed to mitigate for the anticipated impacts to Hawaiian Petrel and Newell's Shearwater by conducting surveys for nesting colonies in West Maui, estimating numbers and distribution, identifying management needs, and where possible, implementing beneficial management measures. If opportunities for colony protection/management on West Maui are not identified or are insufficient to mitigate for the actual impacts to these two species, management opportunities will be identified and implemented either in other areas of Maui or on other islands. KWP will mitigate for anticipated impacts to Nene by funding the construction of a Nene release pen and the operation and maintenance costs of the pen for a five-year period. While surveys conducted on the project site have not detected the presence of Hawaiian Hoary Bats, because they are known to occur in the vicinity, KWP will support research on the habitat requirements of the species. Additional funds will be provided to either fund additional research or implement management actions indicated by the research findings if the actual take exceeds the anticipated level. There were no incidences of incidental take during FY 2006.

### **Endangered Species Recovery Committee**

The following individuals served on the Endangered Species Recovery Committee during FY 2006. One position was vacant; DLNR recommended that Dr. Clifford Morden be appointed to the Committee but the appointment did not take place in FY 2006; Dr. Morden did participate in the FY 2006 meetings.:

Mr. Peter T. Young, Chairperson, BLNR.

Designated Representative – Mr. Bob Matsuda, Deputy Director for Land, Department of Land and Natural Resources, Honolulu, HI; Dr. Scott Fretz, Wildlife Program Manager, of the Division of Forestry and Wildlife, Honolulu, HI. (Agency Representative)

Mr. Patrick Leonard, Ecoregion Manager, United States Fish and Wildlife Service (USFWS) - Pacific Islands Ecoregion

Designated Representative - Mr. Jeff Newman, USFWS.

Dr. David Helweg, Acting Director, United States Geological Survey (USGS)- Biological Resources Division (BRD), Honolulu

Designated Representative - Dr. James Jacobi, USGS-BRD,

Hawaii National Park, HI. (Agency Representative)

Dr. John Harrison, Executive Director, University of Hawaii Environmental Center, University of Hawaii, Manoa, HI. (University Representative)

Dr. Karen Poiani, Honolulu, HI (Appointed Member, Term expires June 30, 2007).

The Committee met four times during the reporting period and visited a project site on Kauai for the proposed programmatic SHA for United States Department of Agriculture Farm Bill recipients, as well as various sites on Kauai related to the pending HCP for the Kauai Island Utility Cooperative. The Committee made a recommendation to the Board of Land and Natural Resources to approve the HCP for the Kaheawa Pastures Wind Energy Generation Facility on Maui.

<b>Status of the Endangered Species Trust Fund (T-919, S-97-800 and S-324 accounts)</b>	
Beginning Balance of Fund on July 1, 2005	\$ 877,228
Revenues during FY 2006	\$ 350,565
Expenditures during FY 2006	\$ 110,183
Cash Balance as of June 30, 2006	\$1,117,610
Unpaid encumbrances as of June 30, 2006	\$ 7,836
<b>Unencumbered Cash for carryover as of June 30, 2006:</b>	<b>\$1,109,774</b>

#### **Summary of Revenues FY 2006**

Investment Pool	\$ 26,412
Fees, Administrative Overhead	\$ 403
Donations, Gifts or Grants	\$ 3,750
Abutilon HCP Contingency Funds	\$ 320,000
<b>Total Revenue for FY 2006</b>	<b>\$ 350,565</b>

#### **Summary of Expenditures FY 2006**

Operating Expenses	\$ 20,130
Machinery and Equipment	\$ 1,415
Cyanotech HCP Bond	\$ 88,638
<b>Total Expenditures for FY 2006</b>	<b>\$ 110,183</b>

#### **FY 2006 EXPENDITURES**

The sources of revenue for the Endangered Species Trust Fund are deposits into the Fund for implementation of SHAs, donations earmarked for endangered species projects, and proceeds from the sale of environmentally-themed products such as endangered species stamps, posters, books, etc., sold to the public to raise money for conservation of

Hawaii's resources. Act 144, SLH 2004, amended the provisions establishing the Endangered Species Trust Fund to change this Fund from a special fund to a trust fund, and to allow deposits of money provided as security, or to implement the obligations of a habitat conservation plan. Trust funds are not currently assessed central services fees and administrative costs. This change in the statute should help encourage donations and use of the Fund by contributors and donors that have expectations that monies deposited into a trust fund, will be protected and available in the future for use on the intended purpose, such as actions required to implement HCPs or SHAs.

Interest income (\$26,412), proceeds from the sale of Endangered Plant Tags (\$403), a donation (\$3,750) from Cyanotech Corporation for endangered species work on the Big Island, and deposits from the Department of Transportation and the Department of Hawaiian Home Lands to serve as a contingency fund for the HCP for *Abutilon menziesii* at Kapolei (\$200,000 and \$120,000, respectively) account for the revenue into the fund in FY 2006. The revenue derived from interest will be allotted to the various projects from which it was earned and the revenue from plant tags will be reserved and used to purchase new tags when time to reorder.

Expenditures made from the Endangered Species Trust Fund during FY 2006 included support of the HCP for *Abutilon menziesii* at Kapolei (\$11,694), the Hamakua Marsh Restoration Project (\$8,436), and the Endangered Species Information and Education Program (\$1,415). Additionally, funds provided by Cyanotech as security for their HCP (\$88,638) were returned after the implementation of their HCP was completed.

### **Recommendations**

1. Establish full time, civil service position for a Program Coordinator. This position is need to conduct routine coordination with applicants to complete the process to issue incidental take licenses, including close coordination with applicant to ensure compliance, assistance in the development of HCP and SHA that are required as conditions of the licenses, and communication and coordination with the Endangered Species Recovery Committee.
2. Enact legislation to remove the "sunset" date on the use of new safe harbor agreements, habitat conservation plans, and incidental take licenses as recovery options for conserving and protecting the State's endangered species.